

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

JO-ANN SMALLRIDGE,

Plaintiff,

vs.

No. 3:11cv732 (SRU)(WIG)

MICHAEL J. ASTRUE,
Commissioner of Social Security
Administration,

Defendant.

ORDER GRANTING DEFENDANT’S CONSENT MOTION TO REMAND
UNDER SENTENCE SIX OF 42 U.S.C. § 405(g) [DOC. # 23]

Defendant, Michael J. Astrue, Commissioner of the Social Security Administration, has moved this Court to remand this case to the Commissioner for further administrative action pursuant to sentence six of 42 U.S.C. § 405(g) because the transcript of the administrative hearing held on October 7, 2010 is incomplete. Counsel for Defendant represents that she has contacted Plaintiff’s counsel, Thomas Albin, Esq., who consents to the relief sought in this motion.

In a sentence six remand, the district court “does not affirm, modify, or reverse [the Commissioner’s] decision; it does not rule in any way as to the correctness of the administrative determination.” *Melkonyan v. Sullivan*, 501 U.S. 89, 98 (1991). Rather, unlike a sentence four remand where a final judgment is entered, in a sentence six remand, the district court retains jurisdiction over the action pending further development by the Social Security Administration. *Shalala v. Schaefer*, 509 U.S. 292, 297, 299 (1993). Thus, there is no final judgment until the Social Security Administration returns to the district court to file its additional or modified

findings of fact and decision, and the district court enters a judgment. *Melkonyan*, 501 U.S. at 98.

Here, the Commissioner has determined, and Plaintiff's counsel concurs, that remand of this case is necessary for a de novo hearing before an administrative law judge. Accordingly, the Court hereby GRANTS the Defendant's motion for an order reversing the Commissioner's decision and remanding the case to the Commissioner for further administrative proceedings [Doc. # 23]. Likewise, to the extent that Plaintiff's motion for an order reversing the decision of the Commissioner [Doc. # 20] sought a remand on this basis, her motion is GRANTED to that extent. The Court does not address the remaining grounds for remand raised in her motion. This remand is pursuant to sentence six of 42 U.S.C. § 405(g) and, therefore, the Court will retain jurisdiction over this matter.

The Clerk is directed to remand this cause to the Commissioner for further administrative proceedings in accordance with this Order and to keep this case open for further proceedings.

SO ORDERED, this 1st day of October, 2012, at Bridgeport, Connecticut.

/s/ Stefan R. Underhill
Stefan R. Underhill
United States District Judge